

EX PARTE COMMUNICATIONS

§ 703.132 Ex Parte conduct.

No member of the Board, or of the Board's staff shall entertain, nor shall any person directly or indirectly involved in an appeal submit to the Board or the Board's staff, off the record, any evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in an appeal. This provision does not apply to consultation among Board members nor to requests for information concerning the Board's administrative functions or procedures.

SANCTIONS

§ 703.133 Sanctions.

If any party fails or refuses to obey an order issued by the Board, the Board may make such order in regard to the failure as it considers necessary to the just and expeditious conduct of the appeal.

SECURITY

§ 703.134 Security requirements.

All proceedings shall be so conducted and the Board shall take such steps as necessary to insure compliance with the security regulations and requirements of the Agency.

Subpart B—Rules of the Contract Adjustment Board [Reserved]

APPENDIX A—ORGANIZATION AND FUNCTIONS, DOE MANUAL, CHAPTER 0114, OFFICE OF THE BOARD OF CONTRACT APPEALS

0114-01 SUPERVISION

Under the supervision of a Chairman, who is appointed by and reports to the Administrator.

0114-02 FUNCTIONS AND AUTHORITY

Acts for the Administrator to provide for the orderly, impartial, fair, and expeditious handling of contract appeals, applications for extraordinary relief under Public Law 85-804, and such other matters as may be referred to the Board by the Administrator. Specifically:

021 The Board, both when acting as the Board of Contract Appeals and as the Contract Adjustment Board, acts for and exercises the full authority of the Administrator

in hearing, considering, and deciding all proceedings within the scope of this chapter.

022 The Board shall have all powers necessary for the performance of its duties, including but not limited to the authority to conduct hearings, call witnesses, dismiss appeals with or without prejudice, order the production of documents and other evidence, administer oaths and affirmations, issue subpoenas, order depositions to be taken, take official notice of facts within general knowledge, and decide all questions of fact and law. Decisions rendered by the Board are final decisions of the Administrator. All such decisions will be by a majority of the Board. Decisions on questions of law are subject to 68 Stat. 81 (1954). 41 U.S.C. 321 and 322 (1970 ed.) relating to finality.

023 Members of the Board are designated as Administrative Judges and the Chairman is designated Chief Administrative Judge.

024 Board members may perform such other quasi-judicial functions as are assigned by the Administrator.

025 The Board shall establish and issue rules of procedure not inconsistent with this chapter.

026 When acting as the Board of Contract Appeals, the Board shall:

a. Consider and decide appeals from decisions of DOE contracting officers in disputes arising under:

(1) Any DOE prime contract containing a dispute provision requiring an DOE contracting officer's decision and providing for an appeal therefrom to the Administrator, and

(2) Any subcontract entered into by a cost-type prime contractor in which such a dispute provision has been included in accordance with DOE Procurement Regulations.

b. Assess liquidated damages pursuant to section 104(c) of the Contract Work Hours and Safety Standards Act (40 U.S.C. sections 327-332).

c. Conduct hearings and decide proceedings for debarment of contractors.

027 When acting as the Contract Adjustment Board, the Board shall:

a. Exercise the authority of the Administrator with respect to contractual fairness cases and such other matters as may be referred to the Board by the Administrator or his designee in accordance with the provisions of 41 CFR 9-17, "Extraordinary Contractual Actions to Facilitate the National Defense." When so designated, and functioning as the Contract Adjustment Board, it shall proceed in the same general manner as when it presides as the Board of Contract Appeals. However, decisions of the Contract Adjustment Board will not be cited as precedent on other matters brought to the Contract Adjustment Board.